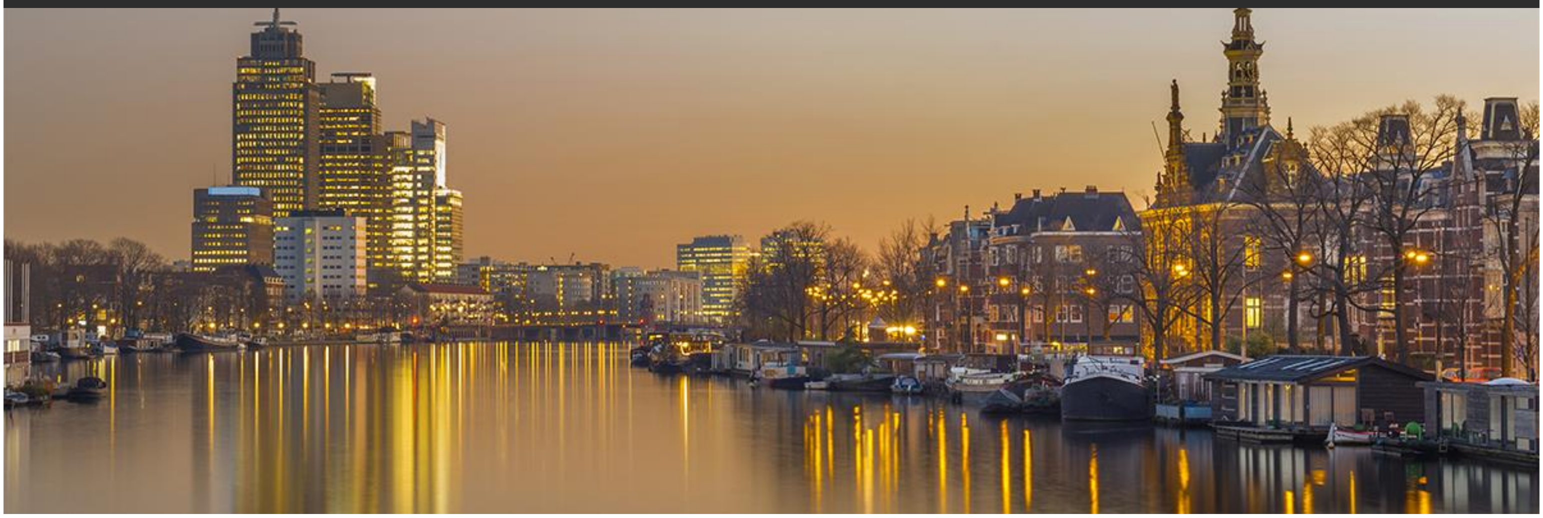
Alert | Tax



September 2020

Dutch 2021 Tax Bill Presented

On Budget Day, 15 September 2020, the Dutch Ministry of Finance presented its 2021 tax plan. For the proposed bills to have effect, they first must be approved by Parliament. If approved, many of the proposed measures will have effect beginning 1 January 2021, with some beginning 1 January 2022. This GT Alert outlines current proposals and previous measures that are proposed to have effect beginning 1 January 2021.

CORPORATE INCOME TAX

Tax rate

Taxable amount	**2020**	**2021**	**2022**
€ 0 - € 200.000	16,5%	15%	15%
€ 200.000 – € 245.000	25%	15%	15%
€ 245.000 - € 395.000	25%	25%	15%

€395.000 or higher	25%	25%	25%

Fiscal COVID-19 reserve

Under current Dutch corporate income tax (**CIT**) law, a CIT loss in a current year can be offset with a CIT profit realized in other years. For example, a 2020 CIT loss can be offset with a CIT 2019 profit. In many cases, this will lead to a refund of CIT. However, these liquidities will not be paid to the taxpayer until at the earliest mid-2021 in the aforementioned example. To accelerate CIT refund, taxpayers will be allowed to form a fiscal COVID-19 reserve in 2019 with regard to the expected 2020 CIT loss. This will effectively accelerate a CIT refund.

Liquidation loss

Under the liquidation loss regime, Dutch taxpayers can take a CIT-deductible loss into account in case a subsidiary is liquidated, if that liquidation results in a CIT loss. As of 2021, a CIT-deductible liquidation loss would be maximized at EUR 5 million, unless:

- The subsidiary is a resident of an EU or EEA member state or Turkey;
- a controlling interest is held in the liquidated subsidiary.

Moreover, a liquidation should be completed in the third year after the decision to discontinue. Similar rules are introduced with regard to the liquidation of a permanent establishment.

Innovation box

The tax rate for the innovation box will increase from 7% to 9%.

Interest deduction limitation

Under current rules, positive exchange gains or negative interest charges incurred on a tainted intra-group loan are exempt from CIT. As of 2021, it will not be possible to claim CIT exemption of that income, if and to the extent no corresponding costs are incurred in that year on the same loan.

WAGE TAX

Work-related expenses scheme (*werkkostenregeling*)

Through the work-related expenses scheme, an employer can provide certain remunerations to employees free of wage tax. As a result of COVID-19, the first bracket of the fixed exemption has been extended.

Fixed exemption	**2020**	**2021**
Wage sum ≤ 400.000	1,7%	3%
Wage sum >400.000	1,2%	1,18%

PERSONAL INCOME TAX

Box I

Tax rate

Taxable amount	**2020**	**2021**
< € 68.507	37,35%	37,10%
> € 68.507	49,5%	49,5%

Lowering of effective tax deduction

For a large number of tax deductions in Box I, the tax deduction will not be deductible against the highest rate of 49,5%, but to a lower rate that is gradually reduced as follows.

	Tax deduction
2020	46%
2021	43%
2022	40%
2023	37,05%

This applies to, amongst others:

- Mortgage interest deduction (*hypotheekrenteaftrek)*;
- Entrepreneur's allowance (*ondernemersaftrek)*;
- SME profit exemption (*MKB-winstvrijstelling)*;
- The exemption in the regime for making assets available (*terbeschikkingstellingregeling*);
- Personal tax credit (partner alimony, health care costs, educational expenses, deductible donations, losses on investments in venture capital).

Pro rate allowance for foreign taxpayers (*voetbalmakelaarsarrest)*

In 2017 the Dutch Supreme Court ruled in favor of a qualifying foreign taxpayer in relation to the deduction for Dutch tax purposes of interest paid on the mortgage debt for his house in Spain, effectively lowering his taxable income in the Netherlands. The Dutch State Secretary already published its policy with regard to this in a temporary decree, but it has now been included in legislation as from 1 January 2021. The measures have retroactive effect as per 9 February 2017.

Box II

Tax rate

	2020	**2021**
Tax rate	26,25%	26,9%

Box III

The tax on deemed income from savings and investments has been subject to debate, which is the reason for the legislative change as proposed. First, the tax-free allowance for Box III is increased to €50.000 (€100.000 for fiscal partners). Second, the applicable rate increases from 30% to 31%. And finally, the deemed income rates have also been changed:

Net Assets	**Deemed income**
50.000 – 100.000	1.9%
100.000 – 1.000.000	4.5%
1.000.000 and higher	5.69%

VALUE ADDED TAX

E-commerce

New VAT rules for e-commerce will be introduced in the European Union as of 1 July 2020. The European Union aims to modernize and simplify the VAT system for online sales of goods. Under the new rules, cross-border sales of goods to consumers will automatically be (VAT) taxable in the members state of arrival of the goods. Moreover, there will be a one-stop shop (OSS) for VAT compliance purposes. Given this change, businesses will no longer be required to file VAT returns across multiple EU member states.

Tax rate

In relation to COVID-19, various political parties in the Netherlands proposed to lower the VAT rate to stimulate the economy. However, this has not led to a proposed change in legislation.

WITHHOLDING TAX

Interest and royalty withholding tax

Currently, the Netherlands does not levy a withholding tax on interest or royalties. As from 1 January 2021, a conditional withholding tax on intra-group royalties and interest payments to low-taxed jurisdictions has been introduced. The withholding tax rate will be equal to the top CIT rate, currently set at 25%.

REAL ESTATE TRANSFER TAX

To stimulate young (18-35) first-time home buyers, a real estate transfer tax (**RETT**) exemption has been introduced, and the statutory rate has been revised.

	2020	**2021**
Residential first-time home buyers (18-35 years)	2%	0%
Residential (the buyer will use it as their residence)	2%	2%
Investors in residential real estate	2%	8%
Commercial	6%	8%

**This GT Alert is limited to non-U.S. matters and law.*

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